

Patent US 207
Attorney Docket No. 891,144-005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

In re the Application of:

WAHR et al.

Serial No.: 09/845,162

Filed: May 1, 2001

For: EMBOLI PROTECTION DEVICES
AND RELATED METHODS OF USE

Group Art Unit: 3763

Examiner: MENDEZ, MANUEL A.

FAX RECEIVED

MAY 23 2006

OFFICE OF PETITIONS

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08. Also attached is a copy of an International Search Report for a related application. Please note that the references included in said International Search Report have been cited in Information Disclosure Statement(s) previously submitted.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

- ☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

May 23, 2006
Date of Deposit
NBI:680526.1

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Cynthia B. Pacheco
Cynthia B. Pacheco

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Attorney Docket No. 891,144-005

application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

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PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
- ☐ Please charge \$180.00 to Deposit Account No. 50-2862 for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. 50-2862.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: May 23, 2006By: Diane K. Wong

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PATENT COOPERATION TREATY

PCT

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INTERNATIONAL SEARCH REPORT

MAY 23 2006

(PCT Article 18 and Rules 43 and 44)

OFFICE OF PETITIONS

Applicant's or agent's file reference 8386.3-2304	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 02/28141	International filing date (day/month/year) 26/09/2002	(Earliest) Priority Date (day/month/year) 09/08/2002
Applicant VELOCIMED, L.L.C.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 10 sheets.
☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the language, the International search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the International search was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

2. ☒ Certain claims were found unsearchable (See Box I).

3. ☒ Unity of invention is lacking (see Box II).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☒ None of the figures.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 02/28141

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 89-118, 140-143, 147-153, 155-158
because they relate to subject matter not required to be searched by this Authority, namely:
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

1-23, 144

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

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International Application No. PCT/US 02/28141

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-23,144

Evacuation sheath assembly comprising three lumens, first and second sealing surfaces and a shaft.

2. claims: 24-42

Evacuation sheath assembly with a distal sealing surface including a proximal cone portion and a distal cone portion

3. claims: 43,44

Evacuation sheath assembly wherein the proximal end of the evacuation lumen is angled and includes a reverse bevel portion

4. claims: 45-58

Evacuation sheath assembly wherein the open proximal end of the evacuation lumen includes a structure to reinforce the proximal opening of the elongated tube

5. claims: 59-64,123-125

Evacuation sheath assembly with a kink-resistant coil and a marker band

6. claims: 65,66

Evacuation sheath assembly wherein the distal sealing surface extends distally beyond the distal end of the evacuation lumen

7. claims: 67-88

Combination for isolating fluid communication between a blood vessel and a catheter with a three-arm adaptor

8. claims: 119-122,128-136

Evacuation sheath assembly with a elongate hollow member wherein the proximal end is flared

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International Application No. PCT/US 02/28141

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

9. claims: 126,127

aims: 126,127

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator between a
---atheter with an obturator

10. claims: 137-139

aims: 137-139

Combination for isolating fluid communication between a
blood vessel and a catheter with an obturator wherein the
distal end includes a balloon with an obturator wherein the
---a balloon

11. claims: 145,146,154

aims: 145,146,154

Combination for isolating fluid communication between a
blood vessel and a catheter with an infusion catheter a
---atheter with an infusion catheter

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International Application No. PCT/US 02/28141

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.1

Claims Nos.: 89-118,140-143,147-153,155-158

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(a) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5). should the problems which led to the Article 17(2) declaration be overcome.

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page 2 of 2

INTERNATIONAL SEARCH REPORT

International Application No.

PCT/US 02/28141

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61B17/12 A61M25/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61B A61M

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 423 032 B2 (PARODI JUAN CARLOS) 23 July 2002 (2002-07-23) column 9, line 23 - line 65; figures 6A, 6B	1-4
Y	----- US 5 108 414 A (ENDERLE JOYCE A ET AL) 28 April 1992 (1992-04-28) figure 3	5-12, 14 5-12
A	----- US 2001 037085 A1 (EUTENEUER CHARLES L ET AL) 1 November 2001 (2001-11-01) page 50, paragraph 5; figure 4	13 14
Y	----- US 5 453 099 A (KARAKELLE MUTLU ET AL) 26 September 1995 (1995-09-26) column 3, line 30 - line 36; figure 4	16
A	----- -/-	

☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance: the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance: the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"A" document member of the same patent family

Date of the actual completion of the international search

7 April 2003

Date of mailing of the international search report

10. 09. 2003

Name and mailing address of the ISA

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NL - 2280 HV Rijswijk
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Authorized officer

Ducreau F.

II INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 02/28141

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	WO 00 44429 A (MICRO THERAPEUTICS INC) 3 August 2000 (2000-08-03) page 5, line 17 - page 6, line 15; figure 2	20,22
A	----- US 2002 022859 A1 (HOGENDIJK MICHAEL) 21 February 2002 (2002-02-21) figure 2C	1,3
A	----- US 6 398 773 B1 (BAGAOISAN CELSO J ET AL) 4 June 2002 (2002-06-04) column 8, line 52 - column 9, line 29; figures 5-7B	1
A	----- US 6 126 635 A (SIMPSON JOHN B ET AL) 3 October 2000 (2000-10-03) the whole document	1

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/28141

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 6423032	B2	22-11-2001	US 6206868 B1	27-03-2001
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Form PCT/ISA/210 (patent family annex) (July 1992)

page 1 of 3

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 02/28141

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Form PCT/ISA/210 (patent family annex) (July 1992)

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No.

PCT/US 02/28141

Patent document cited in search report	Publication date	Patent family member(s)	Publication date	
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			WO 9509024 A1	06-04-1995
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PTO/SB/08a (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A-PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Complete if Known

Application No.	09/845,162
Filing Date	May 1, 2001
First Named Inventor	WAHR
Art Unit	6763
Examiner Name	M. Mendez
Attorney Docket No.	891,144-005

Sheet

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of

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U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document No. Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	us-20020177800	11/2002	Bagaoisan	
	2.	us-20040054347	03/2004	Zadno-Azizi	
	3.	us-20040064092	04/2004	Tsugita	
	4.	us-20040092869	05/2004	Venturelli	
	5.	us-20040127885	07/2004	Barbut	
	6.	us-20040193099	09/2004	MacMahon	
	7.	us-20040260239	12/2004	Kusielka	
	8.	us-5,536,242	07/1996	Willard	
	9.	us-5,779,721	07/1998	Nash	
	10.	us-5,879,361	03/1999	Nash	
	11.	us-5,938,672	08/1999	Nash	
	12.	us-5,997,558	12/1999	Nash	
	13.	us-6,080,170	06/2000	Nash	
	14.	us-6,524,323	02/2003	Nash	
	15.	us-6,569,147	05/2003	Evans	
	16.	us-6,635,029	10/2003	Venturelli	
	17.	us-6,652,546	11/2003	Nash	
	18.	us-6,712,806	03/2004	St. Germain	
	19.	us-6,733,474	05/2004	Kusielka	
	20.	us-6,743,196	06/2004	Barbut	
	21.	us-6,786,888	09/2004	Zadno-Azizi	
	22.	us-6,790,204	09/2004	Zadno-Azizi	
	23.	us-6,805,692	10/2004	Muni	
	24.	us-6,827,701	12/2004	MacMahon	
	25.	us-6,830,577	12/2004	Nash	
	26.	us-6,843,797	1/2005	Nash	
	27.	us-6,905,505	06/2005	Nash	

Examiner
Signature

NB1:680535.1

Date
Considered

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB-08a (08-03)

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EXHIBIT B

Complete and send this form, together with applicable fee(s), to: **Mail**

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

22852

7590

09/21/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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10/21/2005 MBEYENE2 00000086 09845162

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32 FC:1501 APPLICATION NO. FILING NO. DP

09/845,162

05/01/2001

Dennis W. Wahr

08386.0003

FAX RECEIVED**MAY 23 2006**

TITLE OF INVENTION: EMBOLI PROTECTION DEVICES AND RELATED METHODS OF USE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE
nonprovisional	YES	\$700 + \$1,400	\$300	\$2,400	12/21/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
MENDEZ, MANUEL A	3763	604-509000

OFFICE OF PETITIONS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP**

2. _____

3. _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Velocimed, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Maple Grove, Minnesota

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☒ Issue Fee☒ Publication Fee (No small entity discount permitted)☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☒ The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 016-8916 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☒ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Elizabeth M. Burke

Date

10/20/05

Typed or printed name

Elizabeth Burke

Registration No.

38,758

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